

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**AUG 01 2006**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

YAHYA MANDEGARI,

Defendant - Appellant.

No. 05-50853

D.C. No. CR-05-00313-WQH

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
William Q. Hayes, District Judge, Presiding

Submitted July 28, 2006\*\*  
Pasadena, California

Before: GIBSON,\*\*\* RYMER, and CLIFTON, Circuit Judges.

Yahya Mandegari appeals his conviction on one count of violating 18 U.S.C.  
§ 1543. Mandegari's argument that § 1543 does not apply to foreign-issued

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable John R. Gibson, Senior United States Circuit Judge for the Eighth Circuit, sitting by designation.

passports is controlled by *United States v. Dangdee*, 616 F.2d 1118 (1980). Neither *Small v. United States*, 544 U.S. 385, 388-89 (2005), nor *Smith v. United States*, 507 U.S. 197, 203-04 (1993), is “clearly irreconcilable” with *Dangdee*. *Miller v. Gammie*, 335 F.3d 889, 900 (9th Cir. 2003) (en banc) (noting standard). Here, the language, statutory context, and history of § 1543 indicates Congress’s intent that this statute should apply to foreign-issued passports, as well as those issued by this country. *See Dangdee*, 616 F.2d at 1119-20. Accordingly, we affirm.

AFFIRMED.